

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings includes changes to Figs. 1-4. Figs. 1-4 have been redrawn to provide clarity and overcome the Examiner's drawing objections. Figs. 5-11 have been cancelled.

Attachments: **Replacement Sheet** One (1) sheet depicting Figs. 1-4
 Annotated Sheets showing changes Ten (10) sheets depicting
deletion as-filed Figs. 1-11, with as-filed Figs. 1-11 stricken to indicate their

REMARKS

I. Status of the Claims

Applicant submits this Amendment in response to the Office Action mailed September 16, 2009.

By this Amendment, Applicant has amended claims 18, 22-24, and 34, cancelled claims 33 and 36, and added new claim 39. The originally filed specification, drawings, and claims fully support the subject matter of the amended and new claims. Accordingly, claims 18, 19, 21-32, 34, 35, and 39 are currently pending in this application. Claim 18 is the sole independent claim.

II. Oath/Declaration

In the Office Action, the declaration was deemed defective because it was "not signed in the space marked for Inventor's Signature. While the Applicant does not necessarily agree with this assertion, a new declaration in compliance with 37 C.F.R. 1.67(a) is attached to this response. For this reason, Applicant respectfully requests the new fully executed declaration be accepted.

III. Drawing Objections

In the Office Action, claims the drawings were objected to. As-filed Figs. 1-4 have been replaced with new, redrawn, Figs. 1-4 so that they are well defined. Additionally, the specification has been amended to provide antecedent basis for reference numeral 99. Finally, original, as-filed Figs. 1-11 have been cancelled without prejudice or disclaimer of the subject matter thereof.

IV. Specification Objection

In the Office Action, the specification was objected to under 35 U.S.C. 132(a) because it allegedly introduces new matter. The alleged new matter referred was identified on pages 4 and 5 of the March 7, 2006, preliminary amendment. Applicant disagrees with this assertion, and contends that this amendment is fully supported by the original specification, specifically as-filed Figs. 1-4 and the associated written disclosure. The Examiner is invited to point out any specific element that they feel is new matter and the Applicant will address it at that time. For at least this reason, Applicant respectfully requests the withdrawal of the objection to the specification.

V. Claim Objections

In the Office Action, claims 22, 23, and 34 were objected to for various informalities. Claims 22, 23, and 34 have been amended to address the typographical errors noted by the Examiner. Applicant respectfully requests the withdrawal of the claim objections.

VI. Claim Rejections - 35 U.S.C. § 112

In the Office Action, claims 23, 24, and 36 were rejected under 35 U.S.C. § 112 as being indefinite. Claims 23 and 24 have been amended to address the Examiner's comments and claim 36 has been cancelled without prejudice or disclaimer of the subject matter thereof. For these reasons, applicant respectfully requests the withdrawal of the rejections of claim 23, 24, and 36 under 35 U.S.C. § 112.

VII. Claim Rejections - 35 U.S.C. § 103(a)

In the Office Action, claims 18, 19, 22, 30, 32, and 34-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,908,158 to Cheiman ("Cheiman") in view of U.S. Patent 6,152,383 to Chen ("Chen"); claim 21 was rejected as being unpatentable over Cheiman in view of Chen, and further in view of U.S. Patent 4,976,259 to Higson et al. ("Higson"); and claims 23-31 and 33 were rejected as being unpatentable over Cheiman in view of Chen, and further in view of U.S. Patent 6,379,616 to Sheiman ("Sheiman").

Amended claim 18 recites, among other things, "a tubular energy transmitter having one end immersed in the liquid proximate and spaced from the container," "an aerosol tube positioned about at least a portion of the tubular energy transmitter," and "configured for transmission of energy to a focal point of the liquid proximate said one end of the tubular energy transmitter." Cheiman discloses an intake tube, but, as pointed out by the Office Action on page 6, no tubular energy transmitter. Chen discloses a tubular energy transmitter, but no aerosol tube. Additionally, the tubular energy transmitter is not "spaced from the container," but in contrast, is in contact with the container. (Chen, Fig. 1). Further it would not be appropriate to combine these two references. For instance, Cheiman relies on inlets 13 to supply air. Combining this with Chen would result in the fluid flowing out of the Chen container; nor is the combination necessary to achieve the desired result of Cheiman. Furthermore, neither Higson nor Sheiman, cures these deficiencies. For at least these reasons, these references do not establish a *prima facie* case of obviousness with regard to amended independent 18.

Applicant respectfully requests the withdrawal of the rejection of claim 18 and its allowance.

Claims 19 and 21-32, 34, and 35 depend from claim 18 and are patentable for at least these reasons. Further, the dependent claims recite more specific features than the independent claims and are additionally patentable for this reason. Applicant requests the allowance of these dependent claims.

VIII. New Claims

By this Amendment, Applicant has added new dependent claim 39. Claim 39 is allowable at least due to its dependence from claim 18. Further, the dependent claim recites more specific features than the independent claim and is additionally patentable for this reason. Applicant therefore respectfully requests the allowance of new claim 39.

IX. Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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Dated: November 10, 2009

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 Fully Executed Declaration